

Wilmington, Delaware  
November 7, 2013

#3871

Sponsor:

Council  
Member  
D. Brown

**WHEREAS**, the City of Wilmington Department of Real Estate and Housing (the "City") is seeking a permanent use for the former Urban Environmental Center site located at 301 East 15<sup>th</sup> Street a.k.a. 1500 North Walnut Street (the "Property"); and

**WHEREAS**, on May 13, 2013 the Board of Directors of Cityfest, Inc. voted by unanimous decision to terminate the previous lease of the Property between Cityfest, Inc. and the City; and

**WHEREAS**, the City has a preliminary lease agreement with the Partnership for the Delaware Estuary ("Estuary"), a non-profit environmental organization based out of Wilmington, for a long-term land lease of the Property; and

**WHEREAS**, the preliminary lease with Estuary is anticipated to commence January 1, 2015 and is subject to Estuary's engineering and architectural feasibility study of the Property; and

**WHEREAS**, the City is seeking to enter into a temporary, thirteen month lease agreement with the Urban Bike Project of Wilmington, Inc. ("Urban Bike") to occupy the property while Estuary conducts its due diligence of the Property; and

**WHEREAS**, the City, Estuary and Urban Bike have entered into a Memorandum of Understanding regarding the parties anticipated use and lease of the Property; and

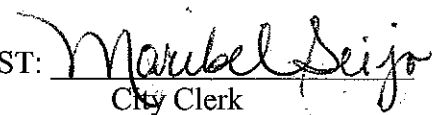
**WHEREAS**, Urban Bike is a non-profit organization based in Wilmington with a focus on education and mechanical self-reliance and seeks to serve the community's needs by educating and promoting cycling as a safe, practical, cost-efficient mode of transportation; and

**WHEREAS**, Urban Bike will be using the Property as a mechanic shop and will have a full compliment of shop quality tools and educational and mechanical programs to assist City of Wilmington residents and youth in need.


**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON** that the City of Wilmington Department of Real Estate and Housing is hereby authorized and directed to enter into a lease agreement for the property located at 301 East 15<sup>th</sup> Street a.k.a. 1500 North Walnut Street for a one year term at the rental rates set forth on Exhibit "A" attached hereto, and the Chief of Staff is hereby authorized and directed to execute as many copies of said lease agreement as may be necessary.

Passed by City Council,  
November 7, 2013

ATTEST:

  
City Clerk

Approved as to form this 5<sup>th</sup>  
day of November, 2013

  
Assistant City Solicitor

**SYNOPSIS:** This Resolution authorizes the Wilmington Department of Real Estate and Housing to enter into a lease agreement for the property located at 301 East 15<sup>th</sup> Street a.k.a. 1500 North Walnut Street. The lease has a term of 1 year.

**"EXHIBIT A"**

**LEASE AGREEMENT**

**THIS LEASE AGREEMENT (the "Lease")** is made this \_\_\_\_ day of \_\_\_\_\_ 2013, by and between the **City of Wilmington**, a municipal corporation of the State of Delaware (hereinafter referred to as "City") and **Urban Bike Project of Wilmington, Inc.**, a non-profit corporation incorporated under the laws of the State of Delaware (hereinafter referred to as "Urban Bike").

**WITNESSETH:**

**WHEREAS**, the City owns that certain parcel of land located at 301 East 15th Street, Wilmington, Delaware, being Tax Parcel No. 2602930126 (hereinafter referred to as the "Demised Premises"); and

**WHEREAS**, Urban Bike desires to temporarily lease the Demised Premises from the City so that the Demised Premises) may be used as a facility for a bike shop to provide quality tools and educational programs and mechanical assistance to City of Wilmington residents and youth in need of assistance; and

**WHEREAS**, the City desires to enter into such an agreement with Urban Bike.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the parties hereto agree as follows:

- (1) Demised Premises. The Demised Premises, being Tax Parcel No. 2602930126, is bounded by East 16<sup>th</sup> Street to the north and East 15<sup>th</sup> Street to the south. The Demised Premises is listed on the National Registry of Historic Places and once served as the City's horse stables.
- (2) Lease Term. The City hereby leases to Urban Bike the Demised Premises for a term of thirteen (13) months beginning on December 1, 2013 and ending on December 31, 2014, if not sooner terminated in accordance with the terms of this Lease.
- (3) Rental. Urban Bike shall pay to City as rental for the Demised Premises the sum of \$425.00 per month during the term of this Lease. Urban Bike covenants and agrees to pay the first month's rent upon execution of this Lease and all remaining rents by the 5<sup>th</sup> of each month during the lease term.
- (4) Use of the Premises. Urban Bike shall use the Demised Premises primarily for the operation of a shop for bike maintenance and repair and educational assistance to the City's youth. The use of the Demised Premises shall be consistent with the provisions of the certificate of incorporation and strategic plan for Urban Bike. Urban Bike shall use the Demised Premises in such a way as to maximize the services and uses provided to the public consistent with the uses specified in this Lease. Urban Bike may put up signage that is in

compliance with the applicable City Code(s). All such signage must be removed from the Demised Property prior to expiration of the Lease Term.

(5) Condition of the Premises. Urban Bike shall make an inspection of the Demised Premises prior to the commencement of the Lease term to familiarize itself with the Demised Premises as it is being leased in "as is" condition. The City shall bear no responsibility for the condition of the Demised Premises and Urban Bike's ability to use the same for its purposes.

(6) Maintenance/Improvements.

a. Urban Bike, at its sole cost and expense, may make alterations or improvements to the Demised Premises upon prior approval of the City which shall not be unreasonably withheld. All alterations or improvements shall be in keeping with Urban Bike's Use of the Premises. Urban Bike, at its sole cost and expense, shall be responsible for all maintenance and repairs at the Demised Premises, necessary to keep the Demised Premises and all improvements (if any) in good order and condition.

b. Nothing in this lease should be construed to require Urban Bike to be responsible to repair or replace any structure, major building system, or capital item, including but not limited to roofing, and HVAC system unless such repair or replacement is directly caused by the negligence of Urban Bike.

c. Notwithstanding paragraph 12 of this Lease, to the extent that the Demised Premises are not currently in compliance with the American Disabilities Act or any other Federal law, the City (and not Urban Bike) bears full responsibility for bringing the Demised Premises in to compliance with such Federal law.

d. Notwithstanding paragraph 12 of this Lease, to the extent that the Demised Premises are not currently in compliance with any law or regulation of Delaware or any applicable governmental unit within of Delaware (including the City of Wilmington), the City (and not Urban Bike) bears full responsibility for bringing the Demised Premises in to compliance with such applicable law.

(7) Taxes; Utilities.

a. During the term of this Lease, Urban Bike shall not be liable for the payment of any real estate taxes that may be assessed, levied or imposed upon the Demised Premises or any part thereof, or the use or occupancy thereof.

b. During the term of this Lease, the City shall be solely liable for the payment of any and all water and sewer service charges; stormwater fees; gas, electricity, heating fuel, telephone and trash service charges; and other charges for utilities incurred by Urban Bike and charged against the Demised Premises during the term of this Lease.

c. During the term of this Lease, Urban Bike shall not be liable for the payment of security services currently provided by Tyco. The City shall pay for this expense.

(8) Insurance.

a. During the term of this Lease, Urban Bike shall procure and maintain in effect, at its sole cost and expense, commercial general liability insurance against any claims for bodily injury, death or property damage, occurring on, in or about the Demised Premises, and against contractual liability for any such claims, such insurance to afford minimum protection for a combined single limit of \$1,000,000.

b. Urban Bike shall also maintain, at its sole cost and expense, workers compensation insurance meeting statutory requirements. Urban Bike, at its sole cost and expense, may also maintain from time to time such other insurance coverages as may be deemed prudent by Urban Bike, including but not limited to, fire and casualty insurance on the buildings and other improvements on the Demised Premises.

c. All policies of insurance required by this Lease shall be maintained with insurance underwriters authorized to do business in the State of Delaware. During the term of this Lease, Urban Bike shall not permit or cause the cancellation or reduction of coverage of any insurance required hereunder without City's approval. Urban Bike shall further name the City as an additional insured under its policies of insurance for the Demised Premises.

(9) Indemnification. Urban Bike covenants and agrees to indemnify and hold harmless the City, its officers, agents and employees, against any suit or claim of any kind for damages or injury to persons or property sustained from the use of the Demised Premises, including environmental claims attributable to Urban Bike's use of the Demised Premises, excluding any claim arising out of or resulting from the City's own negligent, reckless and/or intentionally unlawful conduct.

(10) Fire or Other Casualty.

a. In the event that the Demised Premises are rendered wholly unfit, by fire or other casualty, for the uses and purposes of Urban Bike hereunder, then this Lease shall terminate on the date of such fire or casualty.

b. In the event that the Demised Premises are rendered partially unfit, by fire or other casualty, then Urban Bike shall have thirty (30) days following such fire or casualty to determine whether, in the judgment of Urban Bike, the Demised Premises is still fit for Urban Bike's use and purposes. If Urban Bike notifies the City within the thirty day period of its election to continue the lease of the Demised Premises, then this Lease shall continue as set forth herein. If Urban Bike fails to notify the City of its decision within the thirty day period or declines to continue the lease of the Demised Premises, then this Lease shall automatically terminate upon the conclusion of the thirty day period and Urban Bike shall surrender possession of the Demised Premises to the City.

(11) Assignment/Sublease. Urban Bike shall not assign this Lease or sublet the Demised Premises or otherwise transfer the rights and obligations under this Lease without the prior written consent of the City. Any assignment, sublease, or other transfer in violation of this provision shall result in termination of this Lease.

(12) Compliance with Laws. Urban Bike shall operate and maintain the Demised Premises in accordance with all applicable federal, state, and local laws, rules and regulations that may apply to the Demised Premises.

(13) Termination.

a. In the event that Urban Bike breaches any term or condition of this Lease and, after written notice of such default by the City, fails to cure such default within thirty (30) days after receipt of such notice, or such default is of such a character as to require more than thirty (30) days to cure and Urban Bike fails to commence to cure such default through the exercise of reasonable diligence within that thirty (30) day period, the City may terminate this Lease immediately by giving Urban Bike written notice of the termination and the reasons therefore.

b. The parties may also terminate this Lease upon mutual consent.

c. Upon the termination or expiration of this Lease, Urban Bike shall promptly remove all of its effects from the Demised Premises, except fixtures which have become part of the realty, and peacefully yield up the Demised Premises to the City.

d. Upon termination of this Lease, all structures or improvements on the Demised Premises shall become the property of the City.

e. Urban Bike shall be liable to the City for any damage to the Demised Premises, normal wear and tear excepted, and for the payment of rent through the month in which possession of the Demised Premises is returned to the City.

(14) Notice. Any notice required hereunder to be given to Urban Bike shall be sufficient if in writing and sent by certified mail to Urban Bike at the Demised Premises, with a copy to each of Laura Wilburn, Executive Director, at wilburn.laura@gmail.com, and Adam Singer, Board Member, at asinger47@gmail.com. Any notices required hereunder to be given to the City shall be sufficient if in writing and sent by certified mail to City of Wilmington Law Department, Louis L. Redding City/County Building, 9<sup>th</sup> Floor, 800 N. French Street, Wilmington, Delaware 19801.

(15) Binding Effect. This Lease shall be binding upon and inure to the benefit of the parties, their successors, and assigns. This Lease constitutes the entire agreement between the parties hereto and shall not be changed, amended or otherwise modified except by a subsequent writing signed by Urban Bike and the City.

(16) Access to Premises. The City shall have the right to inspect the Demised Premises at any time during regular business hours and at any time in the event of an emergency. Further, the City hereby reserves easements for all existing and future utilities on and across the Demised Premises. The City also has the right to grant access to the property to the Partnership for the Delaware Estuary subject to the purposes and conditions set forth in a Memorandum of Understanding between the City, Urban Bike, and the Partnership for the Delaware Estuary (the "MOU"). A copy of the MOU is attached as Exhibit A to this Lease and incorporated herein.

(17) Wage Tax; Business License. Urban Bike shall be responsible, if applicable, for the payment of City wage taxes for its employees in accordance with the City of Wilmington's Wage Tax Law as it may be amended from time to time. Urban Bike shall obtain and/or maintain, if applicable, an appropriate business license from the City's Department of Finance.

(18) Discrimination. In the performance of its operations, Urban Bike agrees that they shall not discriminate or permit discrimination against any person because of age, sex, marital status, race, religion, color, national origin or sexual orientation.

(19) Governing Law. This Lease shall be governed by the laws of the State of Delaware.

(20) Severability. In the event that a portion of this Lease shall be declared invalid or unenforceable, the remainder of this Lease shall not be affected thereby, but shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have entered into this Lease the date and year first above mentioned.

**CITY OF WILMINGTON**

**URBAN BIKE OF  
WILMINGTON, INC.**

BY: \_\_\_\_\_  
Mayor

BY: \_\_\_\_\_  
Chairman

Attest: \_\_\_\_\_  
City Clerk

Attest: \_\_\_\_\_  
Secretary

Approved as to form

\_\_\_\_\_  
Assistant City Solicitor